From: Robert White
To: Microsoft ATR
Date: 12/9/01 7:26pm
Subject: Microsoft Settlement

Greetings,

To be just and effective the Microsoft settlement must include two conceptual modifications.

1) Microsoft's duty to disclose must not be limited only to existing commercial concerns. The so-called free software community must also have access to the documentation and functionality of the Microsoft products. This doesn't necessarily have anything to do with the free software community itself, even it that is a vital concern. In practice, in order to start a commercial software venture a person or group needs to do a "proof of concept" before they know if their idea has any viability. In essence, if Microsoft is allowed to limit the determination of their APIs (etc) to already established commercial concerns, they are being allowed to effectively prevent any new competitors to start-up in the field. This would pro-actively and unacceptably repress new software concerns both "free" and "commercial" from competing with Microsoft.

2) All provisions in existing and future licences must be vetted to remove the Microsoft-worst-kept-secret conditions that do not allow hardware vendors to co-install non-Microsoft operating systems on the hardware they deliver. (i.e. the no-dual-boot-to-competitor provisions) While this too directly affects Linux and other free operating systems it has also been used to crush commercial competitors. One only has to look at the way the BeOS operating system was blocked from commercial distribution with new hardware. This Microsoft limit on hardware vendors was used by Microsoft to gravely injure that competitor and eventually was directly responsible for the collapse of that company. They simply couldn't open any distribution channels for their arguably superior product. This is the very behavior that must be prevented in the future.

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